



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1997

Ms. Vicki D. Blanton
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-0286

Dear Ms. Blanton:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 103676.

You inform us that the City of Dallas Police Department (the "city") received a request for an Internal Affairs Division investigation of a certain arrest. You assert that the requested information is excepted from required public disclosure based on Government Code sections 552.108 and 552.111.

When you asked this office for a decision about whether the requested information is excepted from required public disclosure, you failed to submit to this office a copy of the request for information and a copy of the specific information requested, or a representative sample of the information requested. See Gov't Code § 552.301 (requiring governmental body to submit various information to attorney general within 15 days of receiving written request). We note that the city's letter states, "I attach for your *in camera* review a representative sample of those documents believed to be excepted from disclosure." Thus, apparently the city believed that it had submitted copies of representative samples of the requested information with its November 14, 1996 letter, a letter this office received on November 22, 1996.

On November 25, 1996, this office notified you by facsimile transmission that the act requires these submissions, and that, in compliance with section 552.301(e) of the Government Code, failure to submit the necessary information within seven days of receipt

of our notification would result in the legal presumption that the requested information is public information. The city failed to respond to our notification; the information is presumed to be public. See Gov't Code § 552.301(e).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ) (operation of presumption when governmental body fails to timely request decision). When an exception to disclosure that is designed to protect the interests of a third party is applicable, the presumption of openness may be overcome. See Open Records Decision No. 552. (1990). The city asserts that sections 552.108 and 552.111 are applicable to the requested information. Section 552.108 and 552.111 generally protect a governmental body's interests, and not the interests of a third party. Accordingly, we conclude that the city has not demonstrated a compelling reason to overcome the presumption that the requested information is public.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 103676

cc: Mr. John Ochs
5436 Northmoor
Dallas, Texas 75217